



## Ensuring effective and fair offences and penalties

### Fact sheet & FAQs

**What?** Electronic catch and position reporting will provide richer information about which fish are caught and where. This information will provide Fisheries New Zealand with a more comprehensive picture about fishing activity, including illegal behaviour. We propose introducing a more comprehensive range of offences and penalties to ensure they are fair and appropriate and reflect any proposed changes to our fisheries rules – and our improving capability to detect non-compliance.

**Why?** Maintaining a level playing field for commercial fishers, where everyone follows the rules, is important to protecting the integrity of our fisheries. Our current offences and penalties regime is based on a low likelihood of detection. Therefore, it has significant penalties regardless of the level of offending.

Proposals	Detail
Introducing new criminal offences	The proposal is to introduce a graduated offence structure that has a stronger focus on the level of offending. This will allow us to tailor the range of penalties to the level of harm the offending has on the marine environment and integrity of our fisheries management system.
Introducing infringement offences	Infringement offences are a useful tool to address offending that involves small amounts of fish. We propose introducing infringement offences for low-level breaches of our commercial landing and return-to-sea rules.
Changes to defences for illegally returning fish to the sea	Our proposal is to remove the defence for returns to the sea that are approved by a fisheries officer or observer. We also want to introduce a new defence provision that allows fishers to lawfully return fish to the sea to save protected species.

### FAQs

#### Why do you want to introduce new criminal offenses?

Our current offences and penalties regime is based on a low likelihood of detection. Therefore, it has significant penalties regardless of the level of offending. Electronic catch and position reporting will provide richer information about which fish are caught and where. This information will provide Fisheries New Zealand with a more comprehensive picture about fishing activity, including illegal behaviour. A graduated offences structure has a stronger focus on the level of offending. That is, the level of fish that are illegally discarded. This will allow us to tailor the range of penalties to the level of harm the offending has on the marine environment and integrity of our fisheries management system.

### **What are infringement offences and why do you want to introduce them?**

Infringement offences are offences that do not result in a criminal offence. This means there is no criminal record for such offending and they are often penalised with a fine. Parking tickets are infringement offences.

The Act does not allow us to use infringement offences for illegal behaviour that involves taking or possessing fish, which could include breaking the landings and return-to-sea rules. We think infringement offences are a useful tool to address offending that involves small amounts of fish. Infringement offences make it clear to all commercial fishers that any breach of the rules is unacceptable, while providing a reasonable and fair approach to correcting illegal behaviour.

### **Why do we need new defences for discarding offenses?**

Currently there are defences available for commercial fishers relating to what they can return to the sea and in what circumstances. The defences include:

- ensure the safety of the crew,
- parts of processed fish, and
- when it's authorised by a fisheries officer or observer.

Currently there is no defence for returning fish to the sea to avoid the capture of a protected species. Under this proposal a new defence would be created to cover such circumstances. We also propose to remove the defence of discarding, as authorised by a fisheries officer or observer. We believe this is unnecessary and is covered by other defences. Approval from a fisheries officer or observer could be viewed as potentially legitimatising the returning of fish to the sea in circumstances that would otherwise be unlawful and does not incentivise good fishing practice.